

§ 1003.15 Contents of the order to show cause and notice to appear and notification of change of address.

(a) In the Order to Show Cause, the Service shall provide the following administrative information to the Executive Office for Immigration Review. Omission of any of these items shall not provide the alien with any substantive or procedural rights:

- (1) The alien's names and any known aliases;
- (2) The alien's address;
- (3) The alien's registration number, with any lead alien registration number with which the alien is associated;
- (4) The alien's alleged nationality and citizenship;
- (5) The language that the alien understands;

(b) The Order to Show Cause and Notice to Appear must also include the following information:

- (1) The nature of the proceedings against the alien;
- (2) The legal authority under which the proceedings are conducted;
- (3) The acts or conduct alleged to be in violation of law;
- (4) The charges against the alien and the statutory provisions alleged to have been violated;
- (5) Notice that the alien may be represented, at no cost to the government, by counsel or other representative authorized to appear pursuant to 8 CFR 1292.1;
- (6) The address of the Immigration Court where the Service will file the Order to Show Cause and Notice to Appear; and
- (7) A statement that the alien must advise the Immigration Court having administrative control over the Record of Proceeding of his or her current address and telephone number and a statement that failure to provide such information may result in an *in absentia* hearing in accordance with § 1003.26.

(c) *Contents of the Notice to Appear for removal proceedings.* In the Notice to Appear for removal proceedings, the Service shall provide the following administrative information to the Immigration Court. Failure to provide any of these items shall not be construed as

affording the alien any substantive or procedural rights.

- (1) The alien's names and any known aliases;
- (2) The alien's address;
- (3) The alien's registration number, with any lead alien registration number with which the alien is associated;
- (4) The alien's alleged nationality and citizenship; and
- (5) The language that the alien understands.

(d) *Address and telephone number.* (1) If the alien's address is not provided on the Order to Show Cause or Notice to Appear, or if the address on the Order to Show Cause or Notice to Appear is incorrect, the alien must provide to the Immigration Court where the charging document has been filed, within five days of service of that document, a written notice of an address and telephone number at which the alien can be contacted. The alien may satisfy this requirement by completing and filing Form EOIR-33.

(2) Within five days of any change of address, the alien must provide written notice of the change of address on Form EOIR-33 to the Immigration Court where the charging document has been filed, or if venue has been changed, to the Immigration Court to which venue has been changed.

[57 FR 11571, Apr. 6, 1992, as amended at 60 FR 34089, June 30, 1995; 62 FR 10332, Mar. 6, 1997]

§ 1003.16 Representation.

(a) The government may be represented in proceedings before an Immigration Judge.

(b) The alien may be represented in proceedings before an Immigration Judge by an attorney or other representative of his or her choice in accordance with 8 CFR part 1292, at no expense to the government.

[52 FR 2936, Jan. 29, 1987. Redesignated at 57 FR 11571, Apr. 6, 1992, as amended at 62 FR 10332, Mar. 6, 1997]

§ 1003.17 Appearances.

(a) In any proceeding before an Immigration Judge in which the alien is represented, the attorney or representative shall file a Notice of Entry of Appearance on Form EOIR-28 with the Immigration Court, and shall serve a

§ 1003.18

copy of the Notice of Entry of Appearance on the DHS as required by 8 CFR 1003.32(a). The entry of appearance of an attorney or representative in a custody or bond proceeding shall be separate and apart from an entry of appearance in any other proceeding before the Immigration Court. An attorney or representative may file an EOIR-28 indicating whether the entry of appearance is for custody or bond proceedings only, any other proceedings only, or for all proceedings. Such Notice of Entry of Appearance must be filed and served even if a separate Notice of Entry of Appearance(s) has previously been filed with the DHS for appearance(s) before the DHS.

(b) Withdrawal or substitution of an attorney or representative may be permitted by an Immigration Judge during proceedings only upon oral or written motion submitted without fee.

[57 FR 11571, Apr. 6, 1992, as amended at 60 FR 34089, June 30, 1995; 62 FR 10332, Mar. 6, 1997; 80 FR 59502, Oct. 1, 2015]

§ 1003.18 Scheduling of cases.

(a) The Immigration Court shall be responsible for scheduling cases and providing notice to the government and the alien of the time, place, and date of hearings.

(b) In removal proceedings pursuant to section 240 of the Act, the Service shall provide in the Notice to Appear, the time, place and date of the initial removal hearing, where practicable. If that information is not contained in the Notice to Appear, the Immigration Court shall be responsible for scheduling the initial removal hearing and providing notice to the government and the alien of the time, place, and date of hearing. In the case of any change or postponement in the time and place of such proceeding, the Immigration Court shall provide written notice to the alien specifying the new time and place of the proceeding and the consequences under section 240(b)(5) of the Act of failing, except under exceptional circumstances as defined in section 240(e)(1) of the Act, to attend such proceeding. No such notice shall be required for an alien not in detention if the alien has failed to pro-

8 CFR Ch. V (1-1-16 Edition)

vide the address required in section 239(a)(1)(F) of the Act.

[62 FR 10332, Mar. 6, 1997]

§ 1003.19 Custody/bond.

(a) Custody and bond determinations made by the service pursuant to 8 CFR part 1236 may be reviewed by an Immigration Judge pursuant to 8 CFR part 1236.

(b) Application for an initial bond redetermination by a respondent, or his or her attorney or representative, may be made orally, in writing, or, at the discretion of the Immigration Judge, by telephone.

(c) Applications for the exercise of authority to review bond determinations shall be made to one of the following offices, in the designated order:

(1) If the respondent is detained, to the Immigration Court having jurisdiction over the place of detention;

(2) To the Immigration Court having administrative control over the case; or

(3) To the Office of the Chief Immigration Judge for designation of an appropriate Immigration Court.

(d) Consideration by the Immigration Judge of an application or request of a respondent regarding custody or bond under this section shall be separate and apart from, and shall form no part of, any deportation or removal hearing or proceeding. The determination of the Immigration Judge as to custody status or bond may be based upon any information that is available to the Immigration Judge or that is presented to him or her by the alien or the Service.

(e) After an initial bond redetermination, an alien's request for a subsequent bond redetermination shall be made in writing and shall be considered only upon a showing that the alien's circumstances have changed materially since the prior bond redetermination.

(f) The determination of an Immigration Judge with respect to custody status or bond redetermination shall be entered on the appropriate form at the time such decision is made and the parties shall be informed orally or in writing of the reasons for the decision. An appeal from the determination by an Immigration Judge may be taken to